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EXAMINER

MISLEH, JUSTIN P

ART UNIT PAPER NUMBER

2612

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/853,197

Applicant(s)

INAGAKI, ATSUSHI

Examiner

Justin P. Misleh

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed January 6, 2006 have been fully considered but they are not persuasive.
2. Applicant argues, "there is nothing in Miyawaki in that teaches the present invention having a display designating unit that determines whether or not the image is displayed in the image display device." Applicant additionally notes, "that both of images in Figures 10(e) and 10(d) of Miyawaki are displayed ion the LCD 109."
3. Based on Applicant's main argument and corresponding note, there seems to be a misunderstanding by Applicant of Examiner's interpretation of the claimed "an image signal" and "an image" and Miyawaki. The claim language requires therein at least the following components:
 - "an image sensor that outputs an image signal of a subject"
 - "an image display device that displays an image based on said image signal"
 - "a display designating unit that determines whether or not said image is displayed",
4. Regarding the above components, the Office Action initially pointed out that **figures 10a-10d and 10f** correspond to the claimed "image signal" output from the "image sensor" (see page 3). Furthermore, the Office Action additionally pointed out that **figures 10a-10d and 10f** (as supported in Miyawaki et al. in column 14, lines 36 – 47) ALSO correspond to the claimed "an image display device that displays an image based on said image signal" (see again page 3). Finally, the Office Action point out that **figure 10e** shows an instance where the claimed "image

signal” output from the “image sensor” and the claimed “an image display device that displays an image based on said image signal” ARE NOT displayed -- in fact, ONLY A SELECTED PORTION of that “image signal” is displayed.

5. The Examiner maintains that figures 10a-10d and 10f show that the display unit (109) has DETERMINED to display SAID “image signal”. One can clearly see how the scene displayed in figures 10a-10d and 10f is clearly different than the scene displayed in figure 10e. The Examiner acknowledges that the scene in figure 10e is derived from the scenes in figure 10a-10d and 10f; however, the scenes are nonetheless different. Therefore, the Examiner has determined that SAID “image” based on SAID “image signal” output from SAID “image sensor” IS displayed in figures 10a-10d and 10f and SAID “image” based on SAID “image signal” output from SAID “image sensor” IS NOT displayed in figure 10e.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1 – 6, 8 – 13, and 17** are rejected under 35 U.S.C. 102(b) as being anticipated by Miyawaki et al. (EP 650 292 A1).

8. For **Claim 1**, Miyawaki et al. disclose, as shown in figures 8 – 10 and as stated in column 11 (line 45) – column 15 (line 34), an image sensing apparatus, comprising:

an image sensor (101) that outputs an image signal of a subject (see figures 10a-d and 10f);

an image display device (109) that displays an image based on said image signal obtained by said image sensor (figures 10a-d and 10f show the displayed image; also see column 14, lines 36 – 47);

a display designating unit (110) that determines whether or not said image is displayed by said image display device (figure 10e does not show the displayed image that is shown in figures 10a-d and 10e, rather ONLY shows a selected portion of the displayed image; also see column 14, line 49 – column 15, line 14); and

a focus evaluating value obtaining device (130 and 131) that obtains a focus evaluating value (“high frequency component”; see column 13, lines 24 – 42) for adjusting a focus based on said image signal obtained by said image sensor (101; as shown in figure 8, the image signal is passed to blocks 130 and 102); and

a control unit that controls a change of reading manners of said image signal from said image sensor for obtaining the focus evaluating value according to the determination of said display designating unit as to whether or not said image is displayed by said image display device (As shown in figure 10e said image NOT designated by the display designating unit corresponds to an area selected by a user for auto-focusing and electronic zooming as stated in column 14, lines 47 – 54. Furthermore, column 12, lines 49 – 54, specifically states that ONLY a portion of said image sensor corresponding to selected area of figure 10e is readout.).

9. For **Claim 8**, Miyawaki et al. disclose, as shown in figures 8 – 10 and as stated in column 11 (line 45) – column 15 (line 34), a control method of an image sensing apparatus, comprising:

an image sensing step by an image sensor (101) that outputs an image signal of a subject (see figures 10a-d and 10f);

an image displaying step by an image display device (109) that displays an image based on said image signal obtained by said image sensor (figures 10a-d and 10f show the displayed image; also see column 14, lines 36 – 47);

a display designating step by a display designating unit (110) that determines whether or not said image is displayed by said image display device (figure 10e does not show the displayed image as shown in figures 10a-d and 10e, rather ONLY shows a selected portion of the displayed image; also see column 14, line 49 – column 15, line 14); and

a focus evaluating value obtaining step by a focus evaluating value obtaining device (130 and 131) that obtains a focus evaluating value (“high frequency component”; see column 13, lines 24 – 42) for adjusting a focus based on said image signal obtained by said image sensor (101; as shown in figure 8, the image signal is passed to blocks 130 and 102); and

a control step by a control unit that controls a change of reading manners of said image signal from said image sensor for obtaining the focus evaluating value according to the determination of said display designating unit as to whether or not said image is displayed by said image display device (As shown in figure 10e said image NOT designated by the display designating unit corresponds to an area selected by a user for auto-focusing and electronic zooming as stated in column 14, lines 47 – 54. Furthermore, column 12, lines 49 – 54, specifically states that ONLY a portion of said image sensor corresponding to selected area of figure 10e is readout.).

10. As for **Claims 2 and 9**, Miyawaki et al. disclose, as shown in figure 10, wherein said reading manners include to read said image signal from a portion (figure 10e) of said image sensor, and the portion includes a focusing detecting area (see column 12, lines 49 – 54).

11. As for **Claims 3 and 10**, Miyawaki et al. disclose, as shown in figure 10, wherein said reading manners includes to read said image signal from a display region of said image sensor when said display designating unit determines that said image signal is displayed by said image display while said image sensing apparatus photographs said image signal (see explanation below).

Figures 10a-d and 10f corresponds to when the display designating unit designates TO display said image signal and, as stated above, figure 10e corresponds to when the display designating unit does NOT display said image signal. Furthermore, only when the display designating unit does NOT display said image signal is when only a portion of said image sensor is readout, see column 12, lines 49 – 54.

12. As for **Claims 4 and 11**, Miyawaki et al. disclose, as shown in figure 8 and as stated in column 13 (lines 24 – 42), wherein said focus evaluating value (“high frequency component”) is obtained based on a high frequency component of said image signal obtained by said image sensor/sensing step (101).

13. As for **Claims 5 and 12**, Miyawaki et al. disclose a display prohibiting device (same the display designating device) that prohibits display of said image by said image display device (109/210) at least until photographing processing (AF and electronic zooming) is completed if said display designating unit determines that said image is displayed (figure 10f) by said image

Art Unit: 2612

display device (109/210) while said image sensing apparatus photographs said sensed image signal.

Figure 10f corresponds to when the display designating unit designates TO display said image signal and, as stated above, figure 10e corresponds to when the display designating unit does NOT display said image signal.

As for **Claims 6 and 13**, Miyawaki et al. disclose, as shown in figure 8, a focus adjusting device/step that adjusts a focus (by means of 132) based on said focus evaluating value ('high frequency component') obtained by said focus evaluating value obtaining device/step (130 and 131).

14. For **Claim 17**, Miyawaki et al. disclose, as shown in figures 8 – 10 and as stated in column 11 (line 45) – column 15 (line 34), an image sensing apparatus, comprising:

an image sensor (101);

a display (109) configured to display an image based on said image signal obtained by said image sensor (figures 10a-d and 10f show the displayed image; also see column 14, lines 36 – 47);

a designation unit (110) configured to determine whether or not said image is displayed by said display (figure 10e does not show the displayed image that is shown in figures 10a-d and 10e, rather ONLY shows a selected portion of the displayed image; also see column 14, line 49 – column 15, line 14); and

a calculation unit (130 and 131) configured to calculate a focus evaluating value ("high frequency component"; see column 13, lines 24 – 42) for adjusting a focus based on said image

Art Unit: 2612

signal obtained by said image sensor (101; as shown in figure 8, the image signal is passed to blocks 130 and 102); and

a control unit configured to control a change of reading manners of said image signal from said image sensor for obtaining the focus evaluating value according to the determination of said display designating unit as to whether or not said image is displayed by said image display device (As shown in figure 10e said image NOT designated by the display designating unit corresponds to an area selected by a user for auto-focusing and electronic zooming as stated in column 14, lines 47 – 54. Furthermore, column 12, lines 49 – 54, specifically states that ONLY a portion of said image sensor corresponding to selected area of figure 10e is readout.).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 7 and 14 – 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyawaki et al.

17. As for **Claims 7 and 14**, Miyawaki et al. disclose a display designating unit (110) that designates whether or not said sensed image (figure 10a) is displayed by said image display device (109) when the image of the subject is sensed by said image sensor (As stated in columns 13, lines 47 – 58, and 14, lines 1 – 4, said display designating unit, 110, does not designate until an image is sensed by said image sensor, 101) that is implemented in hardware. Albeit,

Miyawaki et al. do not disclose wherein designation by said display designation unit/step is stored in a memory as an image display flag.

However, **Official Notice** (MPEP § 2144.03) is taken that both the concepts and advantages of designation by said display designation unit/step is stored in a memory as an image display flag are well known and expected in the art. At the time the invention was made, it would have been obvious to one with ordinary skill in the art to have for the advantage to provide a readily upgradeable method of operation.

18. For **Claim 15**, Miyawaki et al. disclose, as shown in figures 8 – 10 and as stated in column 11 (line 45) – column 15 (line 34), a control method of an image sensing apparatus, comprising:

an image sensing step by an image sensor (101) that outputs an image signal of a subject (see figures 10a-d and 10f);

an image displaying step by an image display device (109) that displays an image based on said image signal obtained by said image sensor (figures 10a-d and 10f show the displayed image; also see column 14, lines 36 – 47);

a display designating step by a display designating unit (110) that determines whether or not said image is displayed by said image display device (figure 10e does not show the displayed image as shown in figures 10a-d and 10e, rather ONLY shows a selected portion of the displayed image; also see column 14, line 49 – column 15, line 14); and

a focus evaluating value obtaining step by a focus evaluating value obtaining device (130 and 131) that obtains a focus evaluating value (“high frequency component”; see column 13,

lines 24 – 42) for adjusting a focus based on said image signal obtained by said image sensor (101; as shown in figure 8, the image signal is passed to blocks 130 and 102); and

a control step by a control unit that controls a change of reading manners of said image signal from said image sensor for obtaining the focus evaluating value according to the determination of said display designating unit as to whether or not said image is displayed by said image display device (As shown in figure 10e said image NOT designated by the display designating unit corresponds to an area selected by a user for auto-focusing and electronic zooming as stated in column 14, lines 47 – 54. Furthermore, column 12, lines 49 – 54, specifically states that ONLY a portion of said image sensor corresponding to selected area of figure 10e is readout.).

Miyawaki et al. do not disclose a storage medium in which a control program of an image sensing apparatus for performing the above steps is stored. However, Official Notice (MPEP § 2144.03) is taken that both the concepts and advantages of providing a storage medium in which a control program of an image sensing apparatus for performing the above steps is stored are well known and expected in the art. At the time the invention was made, it would have been obvious to one with ordinary skill in the art to have for the advantage of providing a readily upgradeable method of operation.

19. As for **Claim 16**, Miyawaki et al. disclose, as shown in figure 10, wherein said reading manner include to read said image signal from an entire region of said image sensor when said display designating unit determines that said image signal is displayed by said image display while said image sensing apparatus photographs said image signal (see explanation below).

Figure 10f corresponds to when the display designating unit designates TO display said image signal and, as stated above, figure 10e corresponds to when the display designating unit does NOT display said image signal. Furthermore, only when a display designating unit does NOT display said image signal is when only a portion of said image sensor is readout, see column 12, lines 49 – 54.

Conclusion

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

21. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ngoc Yen Vu can be reached on 571.272.7320. The fax phone number for the organization where this application or proceeding is assigned is 571.273.3000.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM
January 13, 2006


NGOC-YEN VU
PRIMARY EXAMINER